

1 GARY A. CARDINAL
2 Assistant General Counsel
3 Nevada Bar No. 76
4 University of Nevada, Reno
5 1664 North Virginia Street/MS 0550
6 Reno, Nevada 89557-0550
7 (775) 784-3495
8 (775) 327-2202--FAX
9 *Attorney for Defendant NSHE*

10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 ★★★★★

14 DENISE ABBEY, individually, and
15 as special administrator of the ESTATE
16 OF MICAH ABBEY,

Case No.: 3:13-cv-00347-LRH-VPC

17 Plaintiffs,

18 vs.

**DEFENDANT BOARD OF REGENTS
FOR THE NEVADA SYSTEM OF
HIGHER EDUCATION OBO THE
UNIVERSITY OF NEVADA, RENO'S
ANSWER TO THIRD AMENDED
COMPLAINT and DEMAND FOR
JURY TRIAL**

19 CITY OF RENO; RENO POLICE
20 DEPARTMENT; KEITH PLEICH individually
21 and in his official capacity as a Police Officer
22 for CITY OF RENO AND RENO POLICE
23 DEPARTMENT; DANIEL BOND individually
24 and in his official Capacity as a Police Officer
25 for CITY OF RENO and RENO POLICE
26 DEPARTMENT; SCOTT RASMUSSEN
27 Individually and in his official Capacity as a
28 Police Officer for CITY OF RENO and RENO
POLICE DEPARTMENT; BRAD
DEMITROPOULOS; THE BOARD OF
REGENTS FOR THE NEVADA SYSTEM OF
HIGHER EDUCATION ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO; and
DOES I through X, inclusive,

Defendants. /

Defendant BOARD OF REGENTS FOR THE NEVADA SYSTEM OF HIGHER
EDUCATION ON BEHALF OF THE UNIVERSITY OF NEVADA, RENO (hereinafter,
"University") answers Plaintiffs' Third Amended Complaint as follows:

INTRODUCTION

1
2 1. Responding to paragraph 1, the University denies that there was a
3 wrongful death or that it occurred at the hands of a University employee. The
4 University lacks sufficient information to form a belief as to the truth of the remaining
5 allegations of this paragraph, and therefore denies the same.

JURISDICTION AND VENUE

6
7 2. Responding to paragraph 2, the University denies the existence of any
8 valid claims for civil rights violations or wrongful death under the statutes referenced in
9 this paragraph, under other statutes, or under the common law.

10 3. Responding to paragraph 3, the University admits that Defendant Brad
11 Demitropoulos (hereinafter, "Demitropoulos") is a resident of the District of Nevada,
12 but lacks sufficient information to form a belief as to the truth of the remaining
13 allegations of this paragraph, and therefore denies the same.

PARTIES

14
15 4. Responding to paragraph 4, the University lacks sufficient information to
16 form a belief as to the truth of the allegations of this paragraph, and therefore denies
17 the same.

18 5. Responding to paragraph 5, the University lacks sufficient information to
19 form a belief as to the truth of the allegations of this paragraph, and therefore denies
20 the same.

21 6. Responding to paragraph 6, the allegations of this paragraph do not
22 apply to this answering Defendant, such that no response is necessary. Should the
23 allegations of this paragraph be interpreted to apply to Demitropoulos or the
24 University, they are expressly denied.

25 7. Responding to paragraph 7, the allegations of this paragraph do not
26 apply to this answering Defendant, such that no response is necessary. Should the
27 allegations of this paragraph be interpreted to apply to Demitropoulos or the
28 University, they are expressly denied.

1 8. The University admits the allegations of paragraph 8.

2 9. Responding to paragraph 9, the allegations of this paragraph do not
3 apply to this answering Defendant, such that no response is necessary. Should the
4 allegations of this paragraph be interpreted to apply to Demitropoulos or the
5 University, they are expressly denied.

6 10. Responding to paragraph 10, the allegations of this paragraph do not
7 apply to this answering Defendant, such that no response is necessary. Should the
8 allegations of this paragraph be interpreted to apply to Demitropoulos or the
9 University, they are expressly denied.

10 11. Responding to paragraph 11, the allegations of this paragraph do not
11 apply to this answering Defendant, such that no response is necessary. Should the
12 allegations of this paragraph be interpreted to apply to Demitropoulos or the
13 University, they are expressly denied.

14 12. Responding to paragraph 12, the University admits that Demitropoulos
15 was an officer with the University of Nevada Police Services and that he resided in
16 Washoe County, Nevada at all times alleged in the Third Amended Complaint.

17 13. Responding to paragraph 13, the University lacks sufficient information
18 to form a belief as to the truth of the allegations in this paragraph, and therefore denies
19 the same.

20 14. Responding to paragraph 14, the University admits that at all relevant
21 times, Demitropoulos was an employee of the University and denies all of the
22 remaining allegations in this paragraph.

23 15. Responding to paragraph 15, the University admits that at all material
24 times, Demitropoulos was acting under color of law.

25 16. Responding to paragraph 16, the University states that Fed.R.Civ.P.
26 8(d)(2) speaks for itself.

27 ///

28 ///

FACTUAL BACKGROUND

17. Responding to paragraph 17, the University adopts by reference and incorporates herein all of its responses to paragraphs 1 through 16, inclusive, as if set forth in full at this point.

18. Responding to paragraph 18, the University believes the allegations of this paragraph to be true, based upon information received from subsequent investigative reports, and therefore admits the same.

19. Responding to paragraph 19, the University denies that at the time of the occurrences alleged in the complaint Demitropoulos knew or should have known of Micah Abbey's alleged mental, physical and emotional conditions. The University lacks sufficient information to form a belief as to the truth of the remaining allegations of this paragraph, and therefore denies the same.

20. Responding to paragraph 20, the University believes the allegations of this paragraph to be true, based upon information received from subsequent investigative reports, and therefore admits the same.

21. Responding to paragraph 21, the University believes the allegations of this paragraph to be true, based upon information received from subsequent investigative reports, and therefore admits the same.

22. Responding to paragraph 22, the University believes the allegations of this paragraph to be true, based upon information received from subsequent investigative reports, and therefore admits the same.

23. Responding to paragraph 23, the University believes the allegation that Defendant Pleich arrived at the residence at approximately 7:56 pm to be true, based upon information received from subsequent investigative reports, and therefore admits the same. The University lacks sufficient information to form a belief as to the truth of the remaining allegations of this paragraph, and therefore denies the same.

///

///

1 24. Responding to paragraph 24, the University lacks sufficient information to
2 form a belief as to the truth of the allegations of this paragraph, and therefore denies
3 the same.

4 25. Responding to paragraph 25, the University lacks sufficient information to
5 form a belief as to the truth of the allegations of this paragraph, and therefore denies
6 the same.

7 26. Responding to paragraph 26, the University lacks sufficient information to
8 form a belief as to the truth of the allegations of this paragraph, and therefore denies
9 the same.

10 27. Responding to paragraph 27, the University lacks sufficient information to
11 form a belief as to the truth of the allegations of this paragraph, and therefore denies
12 the same.

13 28. Responding to paragraph 28, the University believes the allegation that
14 Defendant Bond arrived at the residence at approximately 8:06 pm to be true, based
15 upon information received from subsequent investigative reports, and therefore admits
16 the same. The University lacks sufficient information to form a belief as to the truth of
17 the remaining allegations of this paragraph, and therefore denies the same.

18 29. Responding to paragraph 29, the University denies the allegations of this
19 paragraph.

20 30. Responding to paragraph 30, the University lacks sufficient information to
21 form a belief as to the truth of the allegations of this paragraph, and therefore denies
22 the same.

23 31. Responding to paragraph 31, the University believes the allegation that
24 Abbey refused to go and resisted to be true based on subsequent investigative
25 reports, and therefore admits the same. The University lacks sufficient information to
26 form a belief as to the truth of the remaining allegations of this paragraph, and
27 therefore denies the same.

28 ///

1 32. Responding to paragraph 32, the University believes the allegation that
2 Abbey attempted to escape through a window of his bedroom to be true based on
3 subsequent investigative reports, and therefore admits the same. The University lacks
4 sufficient information to form a belief as to the truth of the remaining allegations of this
5 paragraph, and therefore denies the same.

6 33. Responding to paragraph 33, the University believes the allegation that
7 Abbey attempted to escape through a window of his bedroom to be true based on
8 subsequent investigative reports, and therefore admits the same. The University lacks
9 sufficient information to form a belief as to the truth of the remaining allegations of this
10 paragraph, and therefore denies the same.

11 34. Responding to paragraph 34, the University denies the allegations of this
12 paragraph insofar as they pertain to Demitropoulos and the University, but admits that
13 Demitropoulos used only reasonable, lawful, and justified levels of force as required by
14 Abbey's actions. The University lacks sufficient information to form a belief as to the
15 truth of the allegations of this paragraph insofar as they pertain to others, and
16 therefore denies the same.

17 35. Responding to paragraph 35, the University denies all of the allegations
18 of this paragraph insofar as they pertain to Demitropoulos or the University. The
19 University lacks sufficient information to form a belief as to the truth of the allegations
20 of this paragraph insofar as they pertain to others, and therefore denies the same.

21 36. Responding to paragraph 36, the University denies all of the allegations
22 of this paragraph insofar as they pertain to Demitropoulos or the University. The
23 University lacks sufficient information to form a belief as to the truth of the allegations
24 of this paragraph insofar as they pertain to others, and therefore denies the same.

25 37. Responding to paragraph 37, the University denies all of the allegations
26 of this paragraph insofar as they pertain to Demitropoulos or the University. The
27 University lacks sufficient information to form a belief as to the truth of the allegations
28 of this paragraph insofar as they pertain to others, and therefore denies the same.

1 38. Responding to paragraph 38, the University denies all of the allegations
2 of this paragraph insofar as they pertain to Demitropoulos or the University. The
3 University lacks sufficient information to form a belief as to the truth of the allegations
4 of this paragraph insofar as they pertain to others, and therefore denies the same.

5 39. Responding to paragraph 39, the University denies all of the allegations
6 of this paragraph insofar as they pertain to Demitropoulos or the University. The
7 University lacks sufficient information to form a belief as to the truth of the allegations
8 of this paragraph insofar as they pertain to others, and therefore denies the same.

9 40. Responding to paragraph 40, the University denies all of the allegations
10 of this paragraph insofar as they pertain to Demitropoulos or the University. The
11 University lacks sufficient information to form a belief as to the truth of the allegations
12 of this paragraph insofar as they pertain to others, and therefore denies the same.

13 41. Responding to paragraph 41, the University admits that Demitropoulos
14 briefly assisted in controlling Abbey's legs by crossing them and holding them in place,
15 but denies all of the remaining allegations insofar as they pertain to Demitropoulos or
16 the University. The University lacks sufficient information to form a belief as to the
17 allegations of this paragraph insofar as they pertain to others, and therefore denies the
18 same.

19 42. Responding to paragraph 42, the University admits Demitropoulos briefly
20 assisted in controlling Abbey's legs by crossing them and holding them in place until
21 Defendant Rasmussen arrived to apply RIPP restraints. The University believes the
22 allegation that Defendant Rasmussen arrived at approximately 8:24 pm to be true
23 based upon subsequent investigative reports, and therefore admits the same. The
24 University denies all of the remaining allegations of this paragraph insofar as they
25 pertain to Demitropoulos or the University. The University lacks sufficient information
26 to form a belief as to the truth of the remaining allegations of this paragraph insofar as
27 they pertain to others, and therefore denies the same.

28 ///

1 43. Responding to paragraph 43, the University denies all of the allegations
2 of this paragraph insofar as they pertain to Demitropoulos or the University. The
3 University admits that other officers removed the RIPP restraints and handcuffs and
4 commenced cardio pulmonary resuscitation until medical units arrived and took over.
5 The University lacks sufficient information to form a belief as to the truth of the
6 remaining allegations of this paragraph insofar as they pertain to others, and therefore
7 denies the same.

8 44. Responding to paragraph 44, the University believes the allegations of
9 this paragraph to be true, based upon information received from subsequent
10 investigative reports, and therefore admits the same.

11 45. Responding to paragraph 45, the University denies the allegations of this
12 paragraph because they inaccurately set forth the full and complete findings and
13 further denies that police restraint procedures contributed to the death.

14 46. Responding to paragraph 46, the University denies all of the allegations
15 of this paragraph insofar as they pertain to Demitropoulos or the University. The
16 University lacks sufficient information to form a belief as to the truth of the allegations
17 of this paragraph insofar as they pertain to others, and therefore denies the same.

18 47. Responding to paragraph 47, the University admits that Demitropoulos
19 was acting under color of law at all times relevant hereto.

20 48. Responding to paragraph 48, the University denies all of the allegations
21 of this paragraph insofar as they pertain to Demitropoulos or the University. The
22 University lacks sufficient information to form a belief as to the truth of the allegations
23 of this paragraph insofar as they pertain to others, and therefore denies the same.

24 49. Responding to paragraph 49, the University denies all of the allegations
25 of this paragraph insofar as they pertain to Demitropoulos or the University. The
26 University lacks sufficient information to form a belief as to the truth of the allegations
27 of this paragraph insofar as they pertain to others, and therefore denies the same.

28 ///

1 56. Responding to paragraph 56, the University denies all of the allegations
2 of this paragraph insofar as they pertain to Demitropoulos or the University. The
3 University lacks sufficient information to form a belief as to the truth of the allegations
4 of this paragraph insofar as they pertain to others, and therefore denies the same.

5 57. Responding to paragraph 57, the University denies all of the allegations
6 of this paragraph insofar as they pertain to Demitropoulos or the University. The
7 University lacks sufficient information to form a belief as to the truth of the allegations
8 of this paragraph insofar as they pertain to others, and therefore denies the same.

9 58. Responding to paragraph 58, the University denies all of the allegations
10 of this paragraph insofar as they pertain to Demitropoulos or the University. The
11 University lacks sufficient information to form a belief as to the truth of the allegations
12 of this paragraph insofar as they pertain to others, and therefore denies the same.

13 59. Responding to paragraph 59, the University denies all of the allegations
14 of this paragraph insofar as they pertain to Demitropoulos or the University. The
15 University lacks sufficient information to form a belief as to the truth of the allegations
16 of this paragraph insofar as they pertain to others, and therefore denies the same.

17 **COUNT II**

18 **42 U.S.C. § 1983**

19 **(CITY, RPD AND DOES I-X)**

20 60. Responding to paragraph 60, the University adopts by reference and
21 incorporates herein all of its responses to paragraphs 1 through 59 inclusive, as if set
22 forth in full at this point.

23 61. Responding to paragraph 61, the University denies all of the allegations
24 of this paragraph insofar as they pertain to Demitropoulos or the University. The
25 University lacks sufficient information to form a belief as to the truth of the allegations
26 of this paragraph insofar as they pertain to others, and therefore denies the same.

27 62. Responding to paragraph 62, the allegations of this paragraph do not
28 apply to this answering Defendant, such that no response is necessary. Should the

1 allegations of this paragraph be interpreted to apply to Demitropoulos or the
2 University, they are expressly denied.

3 63. Responding to paragraph 63, the allegations of this paragraph do not
4 apply to this answering Defendant, such that no response is necessary. Should the
5 allegations of this paragraph be interpreted to apply to Demitropoulos or the
6 University, they are expressly denied.

7 64. Responding to paragraph 64, the University denies all of the allegations
8 of this paragraph insofar as they pertain to Demitropoulos or the University. The
9 University lacks sufficient information to form a belief as to the truth of the allegations
10 of this paragraph insofar as they pertain to others, and therefore denies the same.

11 65. Responding to paragraph 65, the University denies all of the allegations
12 of this paragraph insofar as they pertain to Demitropoulos or the University. The
13 University lacks sufficient information to form a belief as to the truth of the allegations
14 of this paragraph insofar as they pertain to others, and therefore denies the same.

15 66. Responding to paragraph 66, the allegations of this paragraph do not
16 apply to this answering Defendant, such that no response is necessary. Should the
17 allegations of this paragraph be interpreted to apply to Demitropoulos or the
18 University, they are expressly denied.

19 67. Responding to paragraph 67, the University denies all of the allegations
20 of this paragraph insofar as they pertain to Demitropoulos or the University. The
21 University lacks sufficient information to form a belief as to the truth of the allegations
22 of this paragraph insofar as they pertain to others, and therefore denies the same.

23 68. Responding to paragraph 68, the allegations of this paragraph do not
24 apply to this answering Defendant, such that no response is necessary. Should the
25 allegations of this paragraph be interpreted to apply to Demitropoulos or the
26 University, they are expressly denied.

27 69. Responding to paragraph 6, the allegations of this paragraph do not
28 apply to this answering Defendant, such that no response is necessary. Should the

1 allegations of this paragraph be interpreted to apply to Demitropoulos or the
2 University, they are expressly denied.

3 **COUNT III**

4 **NEGLIGENCE**

5 **(ALL DEFENDANTS)**

6 70. Responding to paragraph 70, the University adopts by reference and
7 incorporates herein all of its responses to paragraphs 1 through 69 inclusive, as if set
8 forth in full at this point.

9 71. The University denies all of the allegations of this paragraph insofar as
10 they pertain to Demitropoulos or the University, but admits that Demitropoulos acted at
11 all times with due care. The University lacks sufficient information to form a belief as
12 to the truth of the allegations of this paragraph insofar as they pertain to others, and
13 therefore denies the same.

14 72. Responding to paragraph 72, the University denies all of the allegations
15 of this paragraph insofar as they pertain to Demitropoulos or the University. The
16 University lacks sufficient information to form a belief as to the truth of the allegations
17 of this paragraph insofar as they pertain to others, and therefore denies the same.

18 73. Responding to paragraph 73, the University denies all of the allegations
19 of this paragraph insofar as they pertain to Demitropoulos or the University. The
20 University lacks sufficient information to form a belief as to the truth of the allegations
21 of this paragraph insofar as they pertain to others, and therefore denies the same.

22 74. Responding to paragraph 74, the University denies all of the allegations
23 of this paragraph insofar as they pertain to Demitropoulos or the University. The
24 University lacks sufficient information to form a belief as to the truth of the allegations
25 of this paragraph insofar as they pertain to others, and therefore denies the same.

26 75. Responding to paragraph 75, the University denies all of the allegations
27 of this paragraph insofar as they pertain to Demitropoulos or the University. The
28

1 University lacks sufficient information to form a belief as to the truth of the allegations
2 of this paragraph insofar as they pertain to others, and therefore denies the same.

3 76. Responding to paragraph 76, the University denies all of the allegations
4 of this paragraph insofar as they pertain to Demitropoulos or the University. The
5 University lacks sufficient information to form a belief as to the truth of the allegations
6 of this paragraph insofar as they pertain to others, and therefore denies the same.

7 **COUNT IV**

8 **ASSAULT AND BATTERY**

9 **(ALL DEFENDANTS)**

10 77. Responding to paragraph 77, the University adopts by reference and
11 incorporates herein all of its responses to paragraphs 1 through 76 inclusive, as if set
12 forth in full at this point.

13 78. Responding to paragraph 78, the University denies all of the allegations
14 of this paragraph insofar as they pertain to Demitropoulos or the University. The
15 University lacks sufficient information to form a belief as to the truth of the allegations
16 of this paragraph insofar as they pertain to others, and therefore denies the same.

17 79. Responding to paragraph 79, the University denies all of the allegations
18 of this paragraph insofar as they pertain to Demitropoulos or the University. The
19 University lacks sufficient information to form a belief as to the truth of the allegations
20 of this paragraph insofar as they pertain to others, and therefore denies the same.

21 **COUNT V**

22 **WRONGFUL DEATH**

23 **(ALL DEFENDANTS)**

24 80. Responding to paragraph 80, the University adopts by reference and
25 incorporates herein all of its responses to paragraphs 1 through 80 inclusive, as if set
26 forth in full at this point.

27 ///

28 ///

1 the Third Amended Complaint, which waiver is imputed to Plaintiffs.

2 **Fifth Affirmative Defense**

3 Plaintiffs' suit is barred by the doctrine of unclean hands.

4 **Sixth Affirmative Defense**

5 The claims for relief in the Third Amended Complaint allege acts or omissions
6 of employees or agents of the University of Nevada, Reno that occurred in the
7 execution of a statute, ordinance or other legal regulation, while exercising due care,
8 and are therefore barred by NRS 41.032.

9 **Seventh Affirmative Defense**

10 NRS 41.035 limits the amount of recovery against an employee of a political
11 subdivision of the State of Nevada and against the political subdivision to
12 \$100,000.00.

13 **Eighth Affirmative Defense**

14 The claims for relief in the Third Amended Complaint allege performance or
15 non-performance of discretionary functions within the scope of the Defendant's
16 official duties and are therefore barred by NRS 41.032.

17 **Ninth Affirmative Defense**

18 Punitive or exemplary damages are barred by NRS 41.035.

19 **Tenth Affirmative Defense**

20 Defendant is entitled to qualified good faith immunity.

21 **Eleventh Affirmative Defense**

22 The actions of the Defendant were privileged.

23 **Twelfth Affirmative Defense**

24 Without admitting that the Decedent's civil rights were violated in any fashion, the
25 Defendant is shielded from liability for civil damages, because the Defendant's alleged
26 conduct, as set forth in the Third Amended Complaint, did not violate clearly established
27 statutory and/or constitutional rights of which a reasonable person would have known.

28 ///

Thirteenth Affirmative Defense

Defendant is informed and believes and thereupon avers that at all times and places relevant hereto Plaintiffs' Decedent was negligent, at fault and otherwise responsible for the matters which are the subject of this litigation, with such negligence, fault or responsibility proximately causing and contributing to any alleged injuries and damages, and with such negligence being imputed to Plaintiffs.

Fourteenth Affirmative Defense

1. Defendant adopts by reference and incorporates herein the preceding affirmative defense.

2. At all times denying any negligence, fault or responsibility on Defendant's behalf, Defendant avers that the contributory negligence, fault or responsibility of Plaintiffs' Decedent must be compared to that of this Defendant, if any, in accordance with the laws of the State of Nevada, with such comparative negligence being imputed to plaintiffs.

Fifteenth Affirmative Defense

On information and belief, at all times and places alleged in Plaintiffs' complaint, the negligence, misconduct and fault of the Plaintiffs' Decedent exceeds that of this Defendant, if any, and with imputation of such negligence, misconduct and fault to Plaintiffs, Plaintiffs are thereby barred from recovery against this Defendant.

Sixteenth Affirmative Defense

1. Defendant adopts by reference and incorporates herein the preceding two affirmative defenses.

2. At all times denying any negligence, fault or responsibility on Defendant's behalf, Defendant avers that if Defendant is found to be negligent, at fault or otherwise responsible for Plaintiffs' injuries or damages, if any there were but without admitting the same, the principles of law and equity relative to comparative negligence and fault require that the proportionate or relative degrees of negligence, fault or responsibility of all parties involved in the incident be ascertained so that this Defendant be liable to Plaintiffs, if at all,

1 for no more than an amount equal to this Defendant's proportionate or relative degree of
2 negligence, fault or responsibility, if any there is.

3 **Seventeenth Affirmative Defense**

4 Defendant is informed and believes and thereupon avers that Plaintiffs' Decedent
5 consented to the matters referred to in the complaint.

6 **Eighteenth Affirmative Defense**

7 At all times and places relevant hereto this Defendant and its agents or
8 employees acted in good faith, with justification and with probable cause and without
9 malice toward Plaintiffs' Decedent or Plaintiffs. All acts and conduct of this Defendant
10 and its agents and employees were within the jurisdiction of their official authority and
11 were done by virtue of and under the laws of the State of Nevada.

12 **Nineteenth Affirmative Defense**

13 Without admitting that punitive damages are appropriate in this case, Defendant
14 avers that fairness and justice require that Plaintiffs prove a claim for punitive damages
15 by clear and convincing evidence.

16 **Twentieth Affirmative Defense**

17 Without admitting the Plaintiffs are entitled to punitive damages, punitive
18 damages constitute excessive fines prohibited by the United States and Nevada
19 Constitutions. Further, NRS 42.010 does not provide adequate standards and/or
20 safeguards for its application and is therefore void for vagueness under the due process
21 clause of the Fourteenth Amendment to the United States Constitution and in
22 accordance with Article 1, §8 of the Nevada Constitution.

23 **Twenty-First Affirmative Defense**

24 The University is not a person as defined under 42 U.S.C. § 1983, and therefore
25 is not subject to liability under that statute.

26 **Twenty-Second Affirmative Defense**

27 The State of Nevada has reserved its immunity from suit under the Eleventh
28 Amendment to the United States Constitution, with such immunity extending to political

1 subdivisions of the State. Therefore, the University is immune from suit for any claims
2 asserted under 42 U.S.C. § 1983.

3 Pursuant to the provisions of Rule 11 of the Federal Rules of Civil Procedure, at
4 the time of the filing of Defendant's answer, all possible affirmative defenses may not
5 have been alleged inasmuch as insufficient facts and other relevant information may not
6 have been available after reasonable inquiry, and therefore, Defendant reserves the
7 right to amend this answer to allege additional affirmative defenses if subsequent
8 investigation warrants the same.

9 WHEREFORE, this answering Defendant requests the following:

10 1. That judgment be entered in favor of Defendant on each of the causes of
11 action and claims set forth in the Third Amended Complaint;

12 2. That Plaintiffs take nothing by reason of the Third Amended Complaint;

13 3. That Defendant be awarded its reasonable attorney's fees incurred in
14 defending this matter;

15 4. That Defendant be awarded its reasonable costs incurred in defending this
16 matter;

17 5. For such other and further relief as the Court deems appropriate.

18
19 Respectfully submitted, this 31st day of October, 2013.

20
21 /S/ Gary A. Cardinal
22 GARY A. CARDINAL
23 Assistant General Counsel
24 NV Bar No. 76
25 University of Nevada, Reno
26 1664 North Virginia Street/MS 0550
27 Reno, Nevada 89557-0550
28 (775) 784-3495
Attorney for Defendant
NSHE

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the University of Nevada, Reno, over the age of eighteen years, that I am not a party to the within action, and that on the 31st day of October, 2013, I electronically filed the foregoing **DEFENDANT BOARD OF REGENTS FOR THE NEVADA SYSTEM OF HIGHER EDUCATION OBO THE UNIVERSITY OF NEVADA, RENO'S ANSWER TO THIRD AMENDED COMPLAINT**, with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the listed parties below and served the following parties by U.S. mail, postage prepaid, addressed to:

Richard A. Salvatore, Esq.
Hardy Law Group
96 & 98 Winter Street
Reno, NV 89503

Cal J. Potter, III, Esq.
Potter Law Offices
1125 Shadow Lane
Las Vegas, NV 89102

Jack Campbell, Esq.
Reno City Attorney's Office
1 East First Street
PO Box 1900
Reno, NV 89505-1900

/s/ Michelle A. Ene
Employee of the University of Nevada, Reno